# SUPREME COURT OF THE UNITED STATES.

ORIGINAL DOCKET—No. 8.

## EX PARTE: IN THE MATTER OF THE UNITED STATES, ON THE RELATION OF RICHARD R. CRAWFORD,

vs.

## HENRY ADDISON.

ON THE PETITION OF RICHARD R. CRAWFORD FOR A PEREMPTORY MANDAMUS, OR FOR A RULE TO SHOW CAUSE.

Supreme Court of the U. S.—Dec. T., 1859.

In the matter of Richard R. Crawford:

Upon the filing of the petition, and the transcript of record therewith exhibited, a motion is submitted by Mr. Brent and Mr. Carlisle, of counsel for the petitioner, that a peremptory mandamus be issued, directed to the judges of the circuit court of the District of Columbia, commanding them to execute, by due process of law, the judgment of ouster, and for costs, which appears by the said record to have been rendered by the said court, in the matter of the U. S., on the relation of the said Richard R. Crawford vs. Henry Addison.

Or, in the alternative, that a rule be granted to show cause, at a short day to be named therein, why a mandamus shall not issue as prayed.

ROB. J. BRENT,
J. M. CARLISLE,
*Of Counsel, &c.*

Dec. 27, 1859.

[REC. VIII, D. T., 1859.]—1

*Petition.*

To the hon'ble the Chief Justice and Associate Justices of the Supreme Court of the U. S.

The petition of Richard R. Crawford, of the city of Georgetown, in the District of Columbia, humbly showeth:

That an election was holden in the said city of Georgetown, on the fourth Monday of February, in the year of our Lord one thousand eight hundred and fifty-seven, in pursuance of the acts of Congress entitled respectively "An act to amend the charter of Georgetown," (which was approved May 31st, 1830,) and "An act to amend the charter of Georgetown, in the District of Columbia," (which was approved Aug. 11, 1856,) "by ballot to elect some fit and proper person, having the qualifications required by law, to be mayor of the corporation of Georgetown, (aforesaid,) to continue in office two years, and until a successor should be duly elected;" and that at the said election, your petitioner, having such qualifications, received the greatest number of legal votes, and was duly elected mayor of the said corporation, and thereupon took the oath of office as such mayor, and was inducted into the said office, and thereafter for two years, and until the usurpation hereinafter mentioned, discharged the duties and exercised the franchises and privileges incident to the said office; which said office was, and is, an office of public trust, touching the rule and government of the said city.

4 Stat., 426.

11th Stat., 32.

Election of the petitioner in 1857, for two years, and until a successor duly elected.

Induction, &c.

That on the fourth Monday of February, in the year one thousand eight hundred and fifty-nine, another election was holden in the said city for such mayor, the said day being the time for the regular biennial election of mayor, under the acts of Congress aforesaid; and that at the said last mentioned election your petitioner received the greatest number of legal votes, and was by the returns of the judges of election declared duly elected; and in consequence of such election, and of the returns aforesaid, and of an official notice thereof, he presented himself, in presence of the two boards of the common council of the said corporation, to take the oath of office, and claimed that the said oath should be administered to him; but the said two boards, alleging that there was a mistake in the said returns, and that there was in fact a majority of one vote in favor of a certain Henry Addison, who had been the candidate against your petitioner at the said election, caused the said oath of office to be administered to the said Henry Addison; and the said Henry Addison in fact took

Election of 1859.

Petitioner elected and returned.

Refused to be admitten, and Henry Addison inducted.

possession of the said office, to wit, on the day of March, 1859, and hath in fact ever since exercised, and still doth exercise, the privileges and franchises incident thereto.

Information. Quo war. filed.

Your petitioner further shows, that thereafter, at the next ensuing term of the circuit court of the District of Columbia, being the court then and still having jurisdiction in the premises, an information in the nature of a writ of quo warranto, upon the relation of your petitioner, was filed in the said court by Robert Ould, esquire, the attorney of the U. S. for the District of Columbia, and thereupon due process was issued by the said court against the said Henry Addison, requiring him, on a certain day, to answer and show before the said court by what warrant he claimed to exercise the said office of mayor of the corporation of Georgetown; and the said Henry Addison having appeared upon such process, and having pleaded to the said information, and certain replications having been made to the said plea, by the said attorney of the United States, certain issues were joined thereon, at the October term, 1859, of the said court, and amongst others the issue to try whether the said Henry Addison had, as alleged by him in his said plea, received the greatest number of legal votes for mayor, at the said last mentioned election. And upon the said issue it was found by the jury, duly empanelled and sworn to try the same, that the said Henry Addison did not receive the greatest number of legal votes for mayor at the said election; and thereupon the said court rendered judgment of ouster against the said defendant, and for the costs of your petitioner, as relator in the said proceeding, to wit, on the day of December, instant.

Issue, verdict, and judgment of ouster and for costs.

Process prayed and refused, because a writ of error, &c.

Whereupon, due process of law for the execution of the said judgment, to remove the said defendant, and for the recovery of the costs aforesaid, was duly prayed of the said court; but the said Henry Addison pretending that the proceedings upon the said information in matter of law may be reviewed by this hon'ble court upon writ of error, sued out such writ of error, filed a bond, and caused a citation to be issued and served upon your petitioner, to appear and answer to the said writ of error on the return thereof, to wit, at the December term, 1860, of this hon'ble court. And thereupon the said circuit court, for the express and sole reason that such writ of error and bond operated as a supersedeas, (which is expressed in their order in that behalf,) refused to execute the said judgment, or to issue any process to remove the said defendant, or for the recovery of the costs aforesaid. All which fully appears by the record, a duly exemplified transcript whereof is herewith exhibited and filed.

No writ of error lies.

Your petitioner is advised, and humbly submits, that this hon'ble court hath no jurisdiction of the matter of the said writ of error, and that the same must be dismissed on the return thereof. But, as hereinbefore stated, the said writ is not returnable until December term, 1860, and the term of office for which your petitioner was elected as aforesaid will then be about immediately to expire.

Writ not returnable till Dec., 1860, and term of office then expiring.

Your petitioner is advised that his only adequate and proper remedy is by a mandamus from this hon'ble court, directed to the judges of the said circuit court of the District of Columbia, commanding them to issue process for the execution of the judgment aforesaid.

Relief prayed by mandamus.

And for that the transcript of record herewith filed plainly expresses on its face the sole cause for the refusal of such process, so as distinctly to present the whole matter of law for the consideration of this hon'ble court, he prays that a peremptory mandamus may issue; or, in the alternative, that such interlocutory order may be passed to that end, as this hon'ble court may direct.

Peremptory, because the record expresses the reason of refusal of process.

Alternative.

And your petitioner will ever pray, &c.

R. R. CRAWFORD.

ROB. J. BRENT,
J. M. CARLISLE,
*Of Counsel, &c.*

*Jurat.*

Supreme Court of the U. S.—December Term, 1859.

On this 27th day of December, 1859, in open court, personally appears Richard R. Crawford, the above named petitioner, and made oath that the matters of fact stated in aforegoing petition are true to the best of his knowledge and belief.

WH. THOS. CARROLL,
*Clk. Sup. Ct. U. S.*

UNITED STATES OF AMERICA.

The President of the United States to the Judges of the Circuit Court of the District of Columbia, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said court, before you or some of you, wherein the United States, at the relation of Richard R. Crawford, were plaintiff, and Henry Addison, mayor of Georgetown, was defendant, a manifest error hath happened, to the great damage of the said defendant, as by his complaint appears; we being willing that error, if any hath been, should be duly corrected

and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same, on the first Monday of December next, in said Supreme Court, to be then and there held, and that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, which of right and according to the laws and custom of the United States should be done.

Witness the Honorable Roger B. Taney, Chief Justice of said Supreme Court.

Issued this 14th December, 1859.

JNO. A. SMITH, *Cl'k.*

DISTRICT OF COLUMBIA.

The United States of America, to Robert Ould, United States Attorney for the District of Columbia, and Richard R. Crawford, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington, on the first Monday of December next, pursuant to writ of error filed in the clerk's office of the circuit court of the District of Columbia, wherein Henry Addison, mayor of Georgetown, is plaintiff in error, and the United States, at your relation, are defendants in error, to show cause, if any there be, why judgment rendered against the said Henry Addison, mayor of Georgetown, in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness the Hon. James Dunlop, chief judge of the circuit court of the District of Columbia, this twentieth day of December, 1859

JAS. DUNLOP.

Service acknowledged.

ROBT. OULD,
*U. S. Att'y.*
And BRENT & CARLISLE,
*Att'ys for Relator.*

20 Dec'r, 1859

Know all men by these presents that we, Henry Addison, E. M. Linthicum, Samuel Cropley, Judson Mitchell, Joseph Libbey, William H. Tenney, and Wm. H. Edes, all of Georgetown, in the District of Columbia, are held and firmly bound unto the United States of America in the full and just sum of three thousand dollars, lawful money of the United States, their certain attorney or assigns, to which payment well and truly to be made and done, we bind ourselves and each of us, our and each of our heirs, ex-

ecutors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this fourteenth day of December, in the year of our Lord one thousand eight hundred and fifty-nine.

Whereas lately, at a circuit court of the District of Columbia, sitting for the county of Washington, in a suit pending in said court, the United States, at the relation of Richard R. Crawford, are plaintiffs, and the said Henry Addison is defendant, the said circuit did adjudge and direct that the Henry Addison do not in any manner intermeddle with, nor in the place, office, liberties, privileges and franchises of mayor of the corporation of Georgetown, in the District of Columbia, but that he be from henceforth wholly forejudged and excluded from exercising and using the same, and every of them; and that he, the said Henry, be taken to satisfy the United States for the usurpation thereof, and the said Richard R. Crawford, the said relator above mentioned, in this behalf recover against the said Henry Addison the sum of dollars for his costs and charges by him in and about his suit in this behalf expended, according to the form of the statute in such case made and provided, &c.; and the said Henry Addison having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit:

Now the condition of the above obligation is such, that if the above-named Henry Addison shall prosecute the said writ of error to effect, and answer all damages and costs if he shall fail to make his plea good, then the above obligation to be void, otherwise to be and remain in full force and virtue.

H. ADDISON, [SEAL.]
E. M. LINTHICUM, [SEAL.]
SAM'L CROPLEY, [SEAL.]
JUDSON MITCHELL, [SEAL.]
JOSEPH LIBBEY, [SEAL.]
W. H. TENNEY, [SEAL.]
WM. H. EDES. [SEAL.]

Witness: CHAS. D. WELCH.

Approved: JAS. DUNLOP.

DISTRICT OF COLUMBIA, *sct.*

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the 3d Monday of October, being the seventeenth day of same month, in the year of our Lord one thousand eight hundred and fifty-nine, and of the independence of the United States the eighty-fourth.

Present, James Dunlop, chief judge; Hon'ble James S. Morsell,

Wm. M. Merrick, assistant judges; William Selden, esquire, marshal; John A. Smith, clerk.

In the records of the proceedings of the said court, among others are the following, to wit:

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| UNITED STATES, at the relation of RICHARD R. CRAWFORD, vs. HENRY ADDISON, Mayor of Georgetown. | 410. | Trials. October Term, 1859. |

Be it remembered that the said relator, by James M. Carlisle and Robert J. Brent, esquires, his attorneys, filed in court here on the fifteenth day of March, in the year of our Lord one thousand eight hundred and fifty-nine, the following affidavit of said relator, to wit:

Circuit Court of the District of Columbia—January Term, 1859.

In open court, on this day of March, 1859, being of the term aforesaid, , who makes oath, in due form of law, and says:

That a certain Henry Addison has recently, that is to say, on the 7th day of the present month of March aforesaid, *take* actual possession of the office and place of mayor of the corporation of Georgetown, an office and place of a public nature, existing under and by virtue of the act and acts of the Congress of the United States in that behalf heretofore enacted; and that the said Henry Addison has, since the day aforesaid, hitherto claimed and exercised, and still claims and exercises, the powers and privileges of the said office, without warrant and authority of law, and to the ouster and exclusion of this affiant, who is the true and rightful incumbent of the said office, as this affiant verily believes and claims.

This affiant further says, that on the fourth Monday of February last past, an election was held in the said town of Georgetown, for a fit and proper person, having the qualifications required by law, to be mayor of the corporation of Georgetown aforesaid, to continue in office two years, and until a successor is duly elected; and that such election was required so to be held by the act of Congress (4 Stat., 426) entitled "An act to amend the charter of Georgetown, approved May 31, 1830, by which act it is further declared that the person having at said election, which shall be conducted by judges of election appointed by the corporation, the greatest number of legal votes, shall be declared duly elected."

He further states, that at a previous election, holden under the same act, to wit, on the fourth Monday of February, 1857, this affiant was duly elected such mayor, and was in law and fact such mayor at the time of such election first above mentioned, holding the same, by the terms of the act aforesaid, until a successor should be duly elected.

He further states, that in pursuance of the act aforesaid, prior to the said election, judges of the election were appointed by the corporation—that is to say, three judges of election for each of four precincts within the said town; at each of which precincts polls were opened and holden on the said fourth Monday of February last past; and at each of which precincts on the same day, when the polls were closed, the judges of election counted the ballots which had been received by them at their respective precincts for each of the candidates for the office of mayor aforesaid, and duly and formally made and signed a certificate and return of the votes at each of the said precincts respectively; and which said certificates and returns were made and signed respectively by each and every of the judges who had holden the said election at the said precincts respectively, and were thereupon on the same day duly, and according to the invariable custom and practice, delivered to and deposited with the clerk of the said corporation, who was and is the only proper custodian thereof, under the ordinance of the said corporation; that by the said returns it appeared and appears that this affiant was duly elected such mayor as aforesaid, having received the greatest number of legal votes at the said election for the said office; that thereupon this affiant was formally notified by the said clerk, who was also the clerk of the judges of election, according to the invariable usage and practice in such cases, (for more than fifty years, as he is informed and believes,) that he, this affiant, was elected such mayor, and that he should attend and take the oath of office at the meeting of the two branches or boards of the corporation on the Monday following, to wit, the 7th day of the present month of March, which notification he herewith exhibits, marked No. 1, (copied in page .)

He further states, that by the 6th section of the act of Congress, (2 Stat., 333,) approved March 3d, 1805, entitled "An act to amend the charter of Georgetown," it was directed that the said mayor, before he acts as such, "shall" make oath, before some justice of the peace, for the county of Washington aforesaid, in the presence of both branches of the said corporation, that he will well and faithfully discharge the duties of his office. And although this affiant considered the terms of this act in this respect to be merely directory, and not essential to the title to the said office, he did in fact attend at the appointed time, and in the presence of both branches of the said corporation tendered himself ready to take the said oath, and claimed that the same should be then and there administered to him, by a justice of the peace of the said county then and there present and ready to administer the same. But the said two branches or boards of the said corporation, being then and there assembled as one body, and having then and there one presiding officer, proceeded in defiance of law, and without any color of right or jurisdiction, (as affiant is advised and be-

lieves,) to inquire into the correctness of the returns, which had so as aforesaid been made by the judges of election, and refused to abide by the same, and refused to permit this affiant to take the oath aforesaid in their presence, as he claimed the right to do; and on the 9th day of March, 1859, declared that the before mentioned Henry Addison had been duly elected mayor of the said corporation, and then and there suffered and permitted the said Henry Addison to take the oath of office as such mayor.

And this affiant further says, that having been warned that such proceedings as aforesaid would probably take place, and that there might possibly, in consequence thereof, be occasion for the exercise of the powers and discharge of the duties of the said office in the preservation of order, he did in fact take the oath of office as mayor of the said corporation, before a justice of the peace of said county; believing that the said 6th section of the act of 1805, if in force at all, was merely directory; and he herewith exhibits the certificate of such oath, marked No. 2, (copied in page .) But the said Henry Addison, immediately after the proceedings aforesaid, assumed to act as mayor, and (the said proceedings having taken place in the night) on the next morning took possession of the said office, and of all the books, papers, documents, and records thereof, and forthwith proceeded to exercise the powers, privileges, and jurisdictions belonging to the said office, and still exercises the same.

And this affiant further says, that the following circumstances are alleged by the said Henry Addison and those who support him in the premises, as the pretext for the said unlawful proceedings—that is to say, at the said election there were there candidates for the said office of mayor, to wit, the said Henry Addison, one James A. Magruder, and this affiant. According to the returns aforesaid, this affiant received 551 votes, the said Henry Addison 532 votes, and the said Magruder received 49 votes, the total being made up of all the votes returned from all the said precincts. That, by the return made by the judges at the 2d precinct, it appeared that this affiant there received 123 votes, the said Henry Addison received 144 votes, and the said Magruder received 15 votes. That after the polls had been closed, and the return and certificate duly signed and made by all the judges at said precinct, as hereinbefore stated, and after the ballot-boxes, containing or purporting to contain the ballots, had been returned to, and deposited in, the proper office of the said corporation, and without having access thereto, to wit, on the 9th day of March, instant, (being 9 days after the said returns had been made,) two of three judges of the election at the 2d precinct, out of the presence of the third judge, and without his concurrence or assent, made up and signed another and different return of the said election, a copy of

which is herewith exhibited, marked No. 3, (copied in page ,) whereby the said two judges represented that this affiant had in fact received at said precinct, not one hundred and twenty-three votes, (as the same two judges, together with the third, had duly and formally certified and returned as aforesaid,) but only one hundred and three votes; whereby the said Henry Addison, if all the votes received were legal votes, would be elected mayor by a majority of one vote; and upon the pretext that an error in computation had occurred at said precinct, and that the same could be corrected in manner aforesaid, by two of the three judges, the proceedings hereinbefore stated took place in that behalf.

This affiant, leaving matters of law to be decided by this court, states the fact, of which he is credibly informed by parties present and acting in the premises, and which he verily believes, that the said original and lawful return, signed by all the judges, were made up immediately, upon the counting and distribution of the ballots, all the judges being present; and the result being then and there verified by the judges and their clerk. This affiant was not present then or at any time during the said election, or on the making up of said return, in the room where the judges sat, and where the ballot-boxes were, and therefore can state nothing of his own knowledge respecting the number of votes actually received; and he is content, if, upon due and legal investigation by a tribunal having jurisdiction, and the means of ascertaining the truth, such alleged error shall be ascertained, that it shall be corrected. But he states, upon information and belief, that the election at the said precinct was so conducted that there was abundant opportunity for the commission of frauds upon the said election, without the wilful participation or connivance of any said judges, two of whom (to wit, the two who signed the pretended supplemental return) were opposed to this affiant, and were partizans of the said Henry Addison; and he verily believes that frauds were there perpetrated to his disadvantage, and that the said pretended error is founded in fraud, the particulars of which can only be reached by a proceeding in this court.

And this affiant further says, that at the said joint meeting of the said two branches or boards, the said pretended supplemental return of the two judges having been received from them, and not the official channel, the said meeting, acting as one body, did appoint a committee of three persons, one of whom was the said defeated candidate, James A. Magruder, to proceed to the paper office of the corporation, and there inspect the tally papers and the ballots, and to report to the said meeting the result of such inspection; and on such report being made, the said meeting assumed to receive and judge of the same, as evidence that the said Henry Addison was duly elected, and did thereupon set aside the return, so as aforesaid made, in favor of this affiant, and did

adopt the said pretended supplemental return made by two of the judges, and did thereupon assume to declare the said Addison duly elected as aforesaid.

This affiant is advised that the facts heretofore stated are sufficient foundation for a rule upon the said Henry Addison to show cause why an information, in the nature of a quo warranto, shall not be filed against him in the premises; and that upon such proceeding on his relation, your honors will not look behind the returns, but will leave the said Henry Addison to institute for himself such proceedings in this court as he may think advisable for that end. But this affiant states that he verily believes that on any such proceedings, whether at his instance (if the same competent) or at the instance of the said Addison, he, this affiant, will be able to show, as on credible information and belief avers, that the whole election at the said precinct was so conducted as that the whole vote thereof ought to be rejected, whereby the total majority in favor of this affiant would be 40 votes. He says, on such information and belief, that during the election at the said precinct, one of the judges was absent for a considerable time, leaving two judges only to conduct said election. That both the said Addison and the said Magruder (who were combined to defeat this affiant) were in the said room, where the said judges and the ballot-boxes were during the election; that there was inordinate drinking of spirituous liquors in the said room, or a room opening into it; and that one of the judges of election who undertook to carry the ballot-box to the proper office of the corporation, took it first to his own shop, and that he was seen drunk and vomiting in the streets on the night of the election and shortly after the polls were closed; and, finally, that even if the said pretended error in computation did take place, whereby, retaining the vote of the said precinct, the said Addison would appear to be elected by one vote, yet that divers and sundry illegal votes were received and taken at divers precincts for the said Addison, which being rejected, this affiant would still be elected, be the returns so as aforesaid made in his favor, and which returns, he is advised, could only be corrected by a proceeding in this court.

RICHARD R. CRAWFORD.

Sworn to in open court.
Test: JNO. A. SMITH, *Clk.*

15th March, 1859.

Exhibits referred to in the aforegoing affidavit, page , are not on file.

Upon the back of the aforegoing affidavit the following order of the court, on motion of the said relator by his attorneys, was made:

Upon the within affidavit of R. R. Crawford and the affidavit Wm. Clabaugh, and on mo., it is, this 15th day of March, 1859, ordered, that the U. S. att'y for the Dist. Col'a have leave to file an information in the nature of a quo warranto, against the within named Henry Addison, and that on filing the same, the writ of venire facias ad respond. issue, returnable to the first day of the next term of this court.

By order of court.

Test: JNO. A. SMITH, *Cl'k.*

And whereupon, on the day and year aforesaid, U. S. att'y for the District of Columbia files in court here the following information, to wit:

UNITED STATES OF AMERICA, ex relatione
RICHARD R. CRAWFORD,
vs.
HENRY ADDISON.

DISTRICT OF COLUMBIA,
*Washington County, to wit.*

Robert Ould, attorney of the United States for the District of Columbia, who sues for the United States in this behalf, comes here before the circuit court of the District of Columbia, this 15th day of March, in the year one thousand eight hundred and fifty-nine, at the January term of the said court, and upon the relation of Richard R. Crawford, of Georgetown, in the county aforesaid, and by leave of the said court, gives the court here to understand and be informed:

That the office of mayor of the corporation of Georgetown, in the district and county aforesaid, hath been for a long time heretofore, to wit, for the space of fifty years last past and upwards, and still is, a public office and an office of trust, to wit, at said Georgetown, in the county aforesaid, and that a certain Henry Addison, of said town and county, without any legal warrant, grant, right, or authority whatsoever, hath, for the space of seven days now last past and more, held, used, and executed the said office of mayor of the corporation of Georgetown, and without any legal warrant, grant, right or authority whatsoever, still doth hold, use and execute the said office, to wit, at the town and county aforesaid; and that the said Henry Addison, for and during all the time last above mentioned, without any legal warrant, grant, right or authority whatsoever, at the town and county aforesaid, hath claimed, and still doth claim, to be the mayor of the corporation of Georgetown aforesaid, and to have, use, and enjoy all the liberties, privileges and franchises to the office of mayor of the corporation of Georgetown aforesaid, belonging and appertaining; which said office, liberties, privileges and franchises, he,

the said Henry Addison, for and during the whole time last above mentioned, upon the said United States hath usurped, intruded into and unlawfully held, and still doth usurp, intrude into and unlawfully hold, to wit, at the town and county aforesaid, in contempt of the authority of the said United States and against their peace and dignity.

Wherefore the said attorney prays advice of the court here in the premises, and due process of law against the said Henry Addison in this behalf, to answer to the United States, by what warrant he claims to hold, use, and exercise the office, liberties, privileges, and franchises aforesaid.

ROBT. OULD,
*U. S. Attorney for the District of Columbia.*

And thereupon, on the 18th day of March, 1859, the United States writ of venire facias ad respondendum was issued, directed to the marshal of the District of Columbia, in the words and of the tenor following, to wit:

DISTRICT OF COLUMBIA, *to wit.*

The United States of America to the Marshal of the District of Columbia, greeting:

You are hereby commanded that you cause to come Henry Addison, if he shall be found within the county of Washington, that he be and appear before the circuit court of the District of Columbia, to be held for the county of Washington, on the first Monday of May, to wit, the second day of the same month, 1859, on that day to answer to a certain information in the nature of a quo warranto exhibited in court here against him by the United States of America. Hereof fail not at your peril, and have you then and there this writ.

Witness the Honorable James Dunlop, chief judge of the circuit court, the 15th March, 1859.

Issued the 18th day of March, 1859.

JNO. A. SMITH, *Clk.*

At which mentioned first Monday of May, in the year of our Lord one thousand eight hundred and fifty-nine, being the day of the return of the aforegoing writ, come into the circuit court here the said relator, by his attorneys aforesaid, and the marshal of the District of Columbia aforesaid, to whom the said aforegoing writ was in form aforesaid directed, makes thereof to the court here thus endorsed, to wit:

"Summoned." WILLIAM SELDEN,
*Marshal.*

And the said Henry Addison being called, appears in court here, by John Marbury, sr., Joseph H. Bradley, sr., and Henry Winter

Davis, esquires, his attorneys; and thereupon, on motion of the said relator, by his attorneys aforesaid, it is ruled by the court here that the said Henry Addison answer to the information in nature quo warranto, so as aforesaid filed against him.

And on said day the said Henry Addison, by his attorneys aforesaid, filed in court here the following answer, to wit:

And the said Henry Addison comes and defends the *the* wrong and injury, by John Marbury, his attorney; having heard the said information, complains that he is by color thereof grievously used and disquieted, and this unjustly, because, protesting that the said information and the matters therein contained are not sufficient in law, and that the said Henry Addison is not bound by the law of the land to answer the same; yet, for plea in this behalf, the said Henry Addison says that, by a certain of assemby of the State of Maryland, passed at Nov. session, in the year 1789, and entitled "An act to incorporate Georgetown, in Montgomery county," (being Chapter 23,) Georgetown, now in Washington county, District of Columbia, was incorporated and constituted a body politic, in fact and in name, by the name of the Mayor, Recorder, Aldermen, and Common Council of Georgetown; and to perpetuate the succession of the said corporation, it was, in and by the said act of assembly, among other things, provided that the mayor, recorder, aldermen, and council should assemble at some convenient place in the town, on the first Monday in January, in the year 1731, and on the same day forever thereafter, and shall elect, by a majority of votes of such of them as shall be present, one of the aldermen of the said town for the time being to be mayor of the said town for the ensuing year. That by a certain other act of assembly of the same State, passed at the Nov. session, in the year 1737, entitled "An act supplement to the act entitled An act to incorporate Georgetown, in Montgomery county," (being Chapter 56,) the said original act of incorporation was amended, and it was provided that the recorder, aldermen and common council of the said town should thereafter elect the mayor of the said town from the citizens at large; that afterwards, by an act of Congress, entitled "An act to amend the charter of Georgetown," approved March 3d, 1805, it was provided that the said corporation of Georgetown should be divided into two branches, the first to be called the board of aldermen, the second to be called the board of common council; that on the first Monday of January next thereafter, and on the same day annually thereafter, the said corporation shall, by a joint ballot of the said two branches present, choose some of it and proper person to be mayor of the said corporation, to continue in office one year; and by the sixth section of the said act it was further provided, that the said mayor, or before he acts as such, shall make oath before some justice of the peace for the county of

Washington, in the presence of both branches of the said corporation, that he will well and faithfully discharge the several and respective duties of his office. That by a certain other act of Congress, entitled "An act to amend the charter of Georgetown," approved the 31st day of May, in the year 1830, it was further provided, that on the 4th Monday in February next thereafter, and on the same day biennially thereafter, the citizens of Georgetown, qualified to vote for members of the two boards of the corporation of the said town, shall by ballot elect some fit and proper person, having the qualifications then required by law, to be mayor of the corporation of Georgetown, to continue in office two years and until a succession is duly elected, and the person having at said election, which shall be conducted by judges of election, appointed by the corporation of Georgetown, to continue in office two years and until a successor is duly elected, *and that the person having at said election, which shall be conducted by judges of election, appointed by the corporation*, the greatest number of legal votes shall be declared duly elected; and in the event of an equal number of votes being given to two or more candidates, the said two boards, in joint meeting, shall elect the mayor from the persons having such equal number of votes. That by a certain other act of Congress, entitled "An act to amend the charter of Georgetown, in the District of Columbia," approved the 11th day of August, in the year 1856, it was further provided, that it shall be the duty of the said corporation to establish at least two election precincts, within the limits of the said corporation of Georgetown, and to appoint not less than three judges of election for each precinct, and to adopt such other regulations as may be necessary to give full force and effect to the provisions contained in said act in that behalf, and all other acts or parts of acts in conflict with the said last mentioned act was thereby repealed; that in order to carry into effect the provisions of the said last mentioned act of Congress in said behalf, the said corporation, by an ordinance entitled "An ordinance dividing the town into four election precincts," approved the 24th day of January, in the year 1857, provided that Georgetown aforesaid should be divided into four election precincts, and further proceeded to distribute, mark, and bound the same by certain specified metes and bounds; and also provided that annually thereafter, on the first Monday in January, the said two boards, in joint ballot, should elect three fit and suitable persons for each of the aforesaid election precincts, residents of the precincts for which they may be elected, who shall act as judges, according to the regulations prescribed by law, of all elections to be held within said precincts, respectively, during the year for which they shall be elected, and that the said judges be authorized to hire suitable rooms in each precinct to hold all elections in, that may be ordered by the authorities of the town. That by a certain other ordinance of the said

corporation of date anterior to the last mentioned ordinance, entitled "An ordinance providing for the appointment of one clerk in lieu of the present clerk, treasurer, and assistant clerk of this corporation, defining his duties, regulating the receipts and expenditures of the corporation, and for other purposes," approved the *the* 2d day of August, in the year 1856, it is made the duty of the said clerk "to take charge of and safely keep the returns of elections of the two boards, and of all other officers elected by the people of the said town;" that on the first Monday in the year 1859 the said two boards of the corporation of Georgetown in joint meeting elected three judges for each of the said four election precincts respectively, residents of the precincts for which they were elected; that in pursuance of the said acts of incorporation of the said town, and the said acts of the said corporation, an election was held in each of the said four election precincts of the said town on the fourth Monday of February, in the year 1853, for the choice of a fit and proper person, having the qualifications required by law to be mayor of the corporation of Georgetown aforesaid, to continue in office two years, and until a successor should be duly elected; that at the said election this defendant, having all the qualifications required by law to be mayor of the said corporation, received the greatest number of legal votes cast at the said election, and was duly elected mayor of the said town; that this defendant afterwards, on the ninth day of March next, after the date of the said election, appeared before the board of aldermen and board of common council of the corporation of Georgetown in joint meeting assembled, and then and there, in the presence of the said two branches of the said corporation, made oath before a justice of the peace for the county of Washington, in the District of Columbia, well and faithfully to discharge the duties of the said office of mayor of the said corporation; and the said defendant says, that since the said ninth day of March, in the year last aforesaid, and up to the present time, he has used, performed, and exercised, and still use, perform, and exercise, and that justly and of right, all the privileges and duties of the said office of mayor of the corporation of Georgetown, and hath claimed and still doth claim to have, use and enjoy all the liberties, privileges, and *purchises* to him belonging as mayor of the said town, by virtue of the aforesaid acts of incorporation and ordinances, as it was and is lawful for him to do; that without this, that he, the said defendant, hath since the day last aforesaid claimed, used, and exercised the powers and privileges of the said office of mayor of the corporation of Georgetown aforesaid, without warrant or authority of law; and also without this, that the said relator, Richard R. Crawford, received the greatest number of legal votes at the said election for the said office, and was duly elected mayor of the corporation of Georgetown, and is the true and rightful incumbent of the said

office, and hath been since the day and year last aforesaid, and now is unjustly and unlawfully ousted and excluded from the said office by the defendant; and also without this, that the judges of the election held on the fourth Monday of February aforesaid, in the said four election precincts, did, by any returns by them made and lodged with the clerk of the corporation aforesaid for safe keeping, declare that the relator, the said Richard R. Crawford, was at said election chosen mayor of the said corporation; and also without this, that the clerk of the corporation of Georgetown, since the passage of the said act of Congress of the 11th day of August, in the year 1856, and the said ordinance of the corporation of Georgetown of the 24th day of January, in the year 1857, has been, was, or could be clerk to the judges of the elections in said town, and as such authorized to compute the number of votes received by the persons voted for in the said four separate election precincts, upon the separate returns made to him by the judges of said precincts, and to ascertain which of the candidates had received the greatest number of legal votes of the people of the said town, voting in the said four precincts, and to certify the fact of his election to the person who may have received such majority of legal votes; and without this, that the clerk of the corporation did, in fact, compute the returns made to him by the judges of election of the votes received by the several candidates in said four precincts, and did certify to the relator, the said Richard R. Crawford, that he was at the said election chosen mayor of the corporation of Georgetown aforesaid; and also without this, that there was, in fact, any irregularity, evil practice, or produced in the conduct of the said election in any of the said four precincts, and particularly in the conduct of the said election in the said second election precinct, as charged by the relator, the said Richard R. Crawford, in the said information; and without this, that this defendant hath usurped the said liberties, privileges and *purchases* upon the said people of the said town and corporation, in the manner and form as by the said information is above supposed; all which several matters and things he, the said defendant, is ready to verify as the court shall award; whereupon he prays judgment, and that the aforesaid liberties, privileges, and franchises in form aforesaid claimed by him, the said defendant, may, for the future, be allowed to him, and that he may be dismissed and discharged by the court hereof, and from the premises aforesaid.

JNO. MARBURY,
*For Def't.*

Thereupon further process of and upon the premises aforesaid, between the parties *of* aforesaid, by consent of the said parties, by their attorneys aforesaid, and by order of the court here, the said cause is continued until the third Monday of October next.

And now, to wit, the said third Monday of October, in the year of our Lord one thousand eight hundred and fifty-nine, comes again into court here, as well the said relator, by his attorneys aforesaid, as the said respondent, by his attorneys aforesaid, and the said relator, by his attorneys aforesaid, files in court here the following replication to wit:

THE U. S., ex relat. RICHARD R. CRAWFORD,
vs.
HENRY ADDISON.
} Replications.

And the said Robert Ould, esquire, attorney of the United States for the district aforesaid, who for the said United States in this behalf prosecutes, being present here in court, and having heard the said plea of the said Henry Addison, by him above pleaded in bar, read, now, for the said United States, saith, that for anything by him therein alleged, the said United States ought not to be barred from having their aforesaid information against him, because protesting that the said plea, and the matters therein contained, are not sufficient in law to preclude the said United States from having their aforesaid information against him for replication; nevertheless, in this behalf, the said attorney for the said United States saith:

1st. That true it is that the several acts of assembly and acts of Congress which are in part recited in the said plea were passed and approved at the times respectively in the said plea in this behalf stated; and true it is that the said several ordinances in the same plea, in part recited, were enacted by the said corporation of Georgetown, and approved at the times in the same plea in this behalf stated; and true it is that, on the first Monday in the year 1859, the two boards of the corporation, in joint meeting, elected three judges for each of the four election precincts in the said town, respectively, residents of the precincts for which they were elected; but that an election was not held in pursuance of the said act and amended acts of incorporation of the said town, in the said plea so as aforesaid in part recited, and above mentioned; and of the said acts of the said corporation, in each of the said four election precincts of the said town on the fourth Monday of February, in the year 1859, for the choice of a fit and proper person, having the qualifications required by law, to be mayor of the corporation of Georgetown aforesaid, in manner and form as the said Henry Addison hath above in his said plea alleged; and this the said attorney for the said United States prays may be inquired of by the country.

2d. And the said attorney for the United States, &c., further says, that the said supposed election in the said plea alleged to have been holden on the fourth Monday of February, in the year 1859, was not conducted by the judges of election appointed by the

said corporation; and this the said attorney prays may be inquired of by the country.

3d. And the said attorney for the United States further says, that the said supposed election in the said plea alleged to have been holden on the fourth Monday of February, in the year 1859, was not at the second election precinct in the said town, being one of the four election precincts in the said plea mentioned, conducted by the three judges of election appointed by the said corporation for the said precinct; and this the said attorney prays may be inquired of by the country.

4th. And the said attorney for the United States further says, that at the said supposed election in the said plea alleged to have been holden on the fourth Monday of February, in the year 1859, the said defendant had not the qualification required by law to be mayor of the said corporation of Georgetown; and this the said attorney prays may be inquired of by the country.

5th. And the said attorney for the United States further says, that at the said supposed election in the said plea alleged to have been holden on the fourth Monday in February, 1859, the said defendant had not the greatest number of legal votes cast at the said election, and was not duly elected mayor of the said town; and this the said attorneys prays may be inquired of by the country.

6th. And the said attorney for the said United States further says, that at and after the closing of the said supposed election in the said plea alleged as aforesaid, the said defendant was not returned by the judges of the said election as having the greatest number of legal votes cast at said election for mayor of the said corporation; but another person, to wit, a certain Richard Crawford, was by the said judges, at and immediately after the closing of the said election, returned and certified bythe judges thereof as having the greatest number of legal votes cast at said election for mayor of the said corporation; which said returns were made to and deposited with the clerk of the said corporation, who, by the ordinance of the said corporation in that behalf, approved the second day of August, in the year 1856, and by the invariable usage and custom of the said corporation for more than fifty years preceding and up to the said above mentioned election, was the rightful and only custodian of the said returns and certificates, and to whom the same ought rightfully to be made; and that the said returns and certificates having been so as aforesaid made, returned, and deposited, the said defendant was not and could not be lawfully sworn and admitted into the said office of mayor. All and singular which matters and things he, the said attorney, is ready to verify and prove as the court shall award. Wherefore he prays judgment, &c., and that the said defendant may be convict of the premises above charged upon him, and that he may be absolutely prejudged and excluded of and from the said office, &c., so by him claimed in manner aforesaid, &c.

7th. And the said attorney for the said United States further says, that at the said supposed election so as aforesaid pleaded and alleged by the said defendant, that is to say, at the second election precinct aforesaid, there were in fact divers and great irregularities, evil practices and frauds, whereby the said supposed election, at the said second precinct, was wholly vitiated and made of none effect; and this the said attorney is ready to verify and prove, when, &c., wherefore, &c.

8th. And the said attorney for the United States in fact further says, that after the closing of the polls at the said supposed election, by the said defendant above pleaded and alleged, and after the votes had been counted, and after the returns thereof, at the said several precincts, had been duly made and certified as aforesaid, by the judges so as aforesaid appointed by the said corporation, the ballot-boxes which contained the ballots which had been cast by the voters for mayor at said election were not duly guarded and secured, and were not duly returned and deposited in the office of the clerk of the said corporation, but were exposed to frauds and to be tampered with, and were carried about to private places, and out of the charge of the judges of election, or of any officer or person authorized to have the charge and custody thereof, before the same were lodged and deposited with the clerk of the said corporation; and that thereafter the said returns and certificates, so as aforesaid made and returned, were changed and altered, and duplicated, by persons other than the judges of election, upon which said changed, altered, and duplicated returns, and not otherwise, the said defendant claimed and assumed to be mayor as aforesaid, and took possession of the said office; and this the said attorney is ready to verify, when, &c., wherefore he prays, &c.

9th. And the said attorney for the said United States further says, that at the said supposed election, above pleaded and alleged by the said defendant, and at the said second election precinct, the said defendant then being candidate for the said office of mayor, was, during the said election, admitted into the room where the ballots of the votes for the said office of mayor were received and deposited, and there remained alone for a long space of time, with the persons who were conducting the said election; and that one of the judges appointed by the said corporation to hold the said election at the said precinct was absent therefrom for a long space of time, to wit, for the space of one hour, during the holding of the said election; and that divers other irregularities and evil practices occurred and took place in the holding of the election aforesaid, at the said second precinct, whereby the said election, at the said second precinct, was wholly vitiated and made of

none effect; and this the said attorney is ready to verify, &c., when, &c., wherefore he prays, &c.

R. OULD,
*Att'y for U. S.*
CARLISLE,
*Of Counsel.*

And now again, at the said last mentioned term of said court, comes again into court here the said respondent, by his attorneys aforesaid, and files the following joiner and demurrer to the foregoing replication of the said relator.

As to the said 1, 2, 4, 5, replications of said relator, said respondent joins issue, and on 3d replication rejoinder is filed, to wit:

And the said Henry Addison, as to the plea of the said United States, in form aforesaid thirdly above pleaded in reply, (protesting also that the said plea and the matters therein contained are not sufficient in law, as the said United States have in their said plea thirdly above pleaded in reply, in that behalf alleged,) yet for plea, by way of rejoinder in this behalf, the said Henry Addison says that the said election, in the said second precinct, in the said plea mentioned, was in fact conducted and held by a majority of the judges of the election appointed by the said corporation for the said precinct, and that the said Henry Addison was elected mayor of the said city of Georgetown, in manner and form as the said Henry Addison hath above in said plea in that behalf alleged; without this, that the said Henry Addison, on, &c., in manner and form aforesaid as the said United States have in their said plea thirdly above pleaded, in reply in that behalf aforesaid alleged; and this the said Henry Addison is ready to verify; wherefore he prays judgment that the said office so claimed and held by him as aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises charged upon him in form aforesaid.

And so as to the 7th, 8th, and 9th replications, demurrer is entered in form following, to wit:

And the said Henry Addison, as to the said plea of the United States, by them in form aforesaid sixthly pleaded as above, in reply says, that the said plea and the matter therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law, and he need not, nor is he obliged by the law of the land, to answer thereto by way of rejoinder; and this he is ready to verify; wherefore, and for want of a sufficient replication in this behalf, the said Henry Addison prays judgment, and that the said office so claimed and held by him as aforesaid may be allowed and adjudged to him; and that he may be dismissed and

discharged by the court here, of and from the premises charged upon him in form aforesaid.

JOS. H. BRADLEY,
*Att'y for Def't.*

The sixth replication withdrawn by leave of court, on motion of relator, by his attorneys aforesaid. Demurrer to the seventh, eighth, and ninth replications. Judgment was confessed by the United States.

Rejoinder to third replication withdrawn, and demurrer and joinder in demurrer to third replication. Judgment for respondent on demurrer to third replication.

Whereupon, for trying the issues aforesaid, it is ordered by the court here that twenty persons from the panel of petit jurors returned to the court by the marshal of the District aforesaid be drawn, by ballot, according to law in such case made and provided. And twenty persons being so drawn, and a list of their names being furnished each of the parties, and the counsel of the parties having each stricken out four persons from the said lists, thereupon the remaining twelve being called, come, to wit: 1. Michael R. Coombes. 2. Thomas Galligan. 3. Samuel R. Sylvester. 4. Thomas Fitnam. 5. Richard M. Harrison. 6. James McColgan. 7. Elijah Edmonston. 8. James Owner. 9. Bennett Henning. 10. Thomas D. Larner. 11. Thomas E. Young. 12. Alfred Ray.

Who being empanelled and sworn to say the truth in the premises upon their oath, do say that they find for the respondent on the issues joined on the first, second, and fourth replications, and that they find for the relator on the issue joined on the fifth replication.

Whereupon all and singular the premises being seen and fully understood by the court here, and in particular the matters above put in issue and tried by the country, being seen and fully understood by the court here, it appears to the court here, from the verdict aforesaid, in form aforesaid, given against the said Henry Addison, that the said Henry Addison hath usurped, and still doth usurp, upon the United States, the place, office, liberties, privileges, and franchises of mayor of Georgetown, in the county of Washington, in the District of Columbia, in manner and form as by the said information is above charged upon him: Therefore it is considered by the court here that the said Henry Addison do not in any manner intermeddle with or concern himself in and about the office, liberties, privileges, and franchises aforesaid, but that he be absolutely prejudged and excluded from ever exercising or using the same, or any of them, in future. And the said Henry Addison, in order to satisfy unto the United States for and on account of the usurpation aforesaid, be taken, &c.; and that the

said Richard R. Crawford, the relator above named in this behalf, recover against the said Henry Addison the sum of $ , for his costs and charges by him expended and laid out in and about his suit in this behalf, according to the form of the statute in such case made and provided, and that he have thereof execution, &c., and the said, in mercy, &c.

Test: JNO. A. SMITH, *Cl'k.*

And thereupon the said defendant prays a writ of error, and tenders to the court here a certain bond and citation, (copied on pages 2 and 3,) and claims that the said judgment of ouster be superseded pending such writ of error.

And the said attorney for the United States prays process of this court to enforce the said judgment of ouster, without delay or supersedeas. And the said relator prays a writ of fieri facias against the goods and chattels of the said defendant, for the recovery of his costs aforesaid. But the court being of opinion that the said judgment is superseded by the filing of the bond aforesaid, refuses to grant any process to enforce the same.

Test: JNO. A. SMITH, *Cl'k.*

Before the jurors aforesaid retired from the bar of the court here the said defendant, by his attorneys aforesaid, filed in court here the following bills of exception, to wit:

THE UNITED STATES, on the relation of
R. R. CRAWFORD,
vs.
HENRY ADDISON.

On the trial of this cause, the defendant, to maintain the issue on his part joined, gave in evidence certain proceedings of the two boards of common council and board of aldermen of Georgetown as follows: (here insert all the proceedings of said boards relating to the appointment of the judges of the election and the filling the vacancy for the year 1859, copied on page ); and also the publication of the notice of the election in that town for the 4th Monday in February, 1859, as follows: (here insert it, copied on page ); and by the clerk of said corporation, gave evidence to show that for more than fifty years past it has been the usage in said town for the judges of the election, after the close of the polls, to return to the said clerk the ballot-boxes locked, and to give him the key thereof, and for him, the clerk, to place them in the fire-proof of his office until it should be necessary for him to open them and take out the certificates of the judges of the result of the election, in order to notify the parties designated in said certificates as having received the highest number of votes, and then to relock the said ballot-boxes and put them in the same place of safety; that on the evening of the 4th Monday of February, 1859, he was at

his office, and received from the judges of the several precincts in said town the four ballot-boxes, (being the ballot-boxes from the 4 election precincts in said town,) which he now produces in court here; that they were all locked when he so received them, and he at the same time received from the respective judges the keys of the respective boxes, except that for the second precinct, which was delivered to him the next morning by one of the judges of that precinct; that on the same evening in which he received the said boxes, and immediately after receiving them, he put them, without *them* having been opened or touched by any other person, into the said fire-proof, where they have remained until brought by him to this trial; that he put the keys of said boxes in a secret place known only to himself; that three other persons, only two of whom were officers of the corporation, and the third the son of one of those officers, could at any time have had access to the place where said boxes were kept; that prior to the 7th day of March, 1859, and in order to give notice of their election to the persons designated by the said judges as elected at said election, he opened the said boxes and took from each the certificates made out and returned by the judges of election of each several precinct, relocked the boxes and put away the keys, and has held and kept the said certificates respectively in his exclusive possession to this day, and now produces them here in court; that none of the said boxes except the said box from the said 2d *precinth* has been opened to this day, on any other occasion; that when he opened the said boxes respectively, as to each and every of them, he found at the bottom of the box the original ballots *esteemed* by the judges in each election *precinth*, strung on a string, and above them the list of persons assessed, which had been *furished* by him to the said judges respectively, and the return or certificate of the judges above, third next to the top; besides these two papers, he found, in the 2, 3, and 4 *precinths* a list of names of the voters where votes had received, apparently in the order in which they were received, and the original list of assessed voters *furished* by him to the first *precinth* had checks in pencil opposite certain names, as it now appears, indicating that that person had voted, and on it also are added then, as they now appear in pencil, a number of names which are not in the original assessment list. Besides which papers, there was in each box, respectively, a tally list of the names of the several respective candidates at said election, with tallies of the votes received set opposite each name, and the amount or number for each carried out in figures into a single column, (here insert said papers marked Nos. copied on page ). In the first *precinth* the certificate of the judges was written at the foot of the said tallies paper—a list in the 2 and 3 precincts—it was on a separate paper. In the fourth precinct, at the foot of the register of voters kept the judges.

He further gave in evidence the certificate of the judges of the 2d precinct as follows, (here insert it, copied on page ); and then, by the said clerk of the said corporation, further gave evidence to show that, pursuant to custom, after he had received and examined the said certificates, now shown to the court and jury, (by which it is admitted, it appears the relator had received 551 votes, and the defendant 532 votes,) he gave notice to the relator as follows, (here insert the notice copied on page ); that the councils assembled on the said 7th day of March, 1859, and he read from the minutes of the proceedings of said meeting as follows, (here insert the same, copied on page ); and also from the minutes of the proceedings of the 9th day of March, 1859, as follows, (here insert the same, copied on page ); and the said clerk further testified, that from the time he received the said ballot-box and the key thereof respectively, until they were so produced by him before the said council, he had retained the exclusive possession of the said key, and the said ballot-box had remained he had placed it in the vault or fire-proof of his, the said office, and when opened by him before the said councils, appeared to be in the same condition it was in when he opened it to take out the said certificate; that by the direction of the councils, and in the presence of the committee for that purpose appointed by them as aforesaid, he, the said clerk, took out the papers from the said box, and took off from the string, which had been run through them by the said judges, each separate ballot and replaced it in the box, and there were 262 ballots, neither more nor less, for mayor, of which the defendant had 144, the relator 103, and Mr. Magruder 15; that the same were then compared with the tally list found in said ballot-box, and returned by said judges, and were found to correspond precisely with said tallies, to wit: there were 28 tallies and 4 scores for Mr. Addison, 20 tallies and 3 scores for Mr. Crawford, and 3 tallies for Mr. Magruder; that no one touched any one or more of said ballots, except himself, and he replaced all the said ballots unstrung, and the other papers except the said certificate, in said ballot-box, and has the same in his exclusive custody to this day.

And further, he gave evidence to show, by two of the judges of the said precinct, that on the day of the election, and immediately after the close of the poll, they counted over the ballots received, and there were two hundred and sixty-two, only; that they then began to count the separate vote for each candidate, and had prepared two tally lists, and begun to count, when they invited a citizen to assist them as clerk, who did so, one of the judges taking the ballot, and reading off the names respectively; another of the judges and also the said clerk scoring the same each for himself on the respective tally lists; and after the whole vote on the ticket was thus scored, the ballot was passed by the judge, who read it

to the third judge, who passed a needle through it and strung it on a string, and so on to the end; that when the talley was completed the clerk and the judge who kept the tally, each for himself, summed up the vote of each candidate, and agreed in the result, and each announced Mr. Addison 144, Mr. Crawford 123, Mr. Magruder 15, and so on; that the certificate was then prepared and signed by the judges; the ballots thus strung were put into the bottom of the box; none were loose; over them was put the tally paper so kept by the said clerk, (the other tally paper being kept on the table, and afterwards taken up and kept by one of the judges, not *be* the same who made it,) the list of persons assessed, the list of names of voters whose votes were received, and which was kept during the poll by one of the judges, and shows 261 votes received, and on the top of all, the certificate made out by the judges; the box was closed and locked, the key put into the possession of one of the judges, and the box into the care of another, and then taken by those two judges to the mayor's office, and the box delivered to the said clerk of the corporation the same evening, and the key the next morning; and the said defendant now produces the said tally paper so kept by the said judge, and reads it in evidence as follows, (here insert the tallies and summing up for the several candidates for mayor;) that the said tallies exactly correspond; and further, in order to show a mistake in the count of the votes so certified by the said judges of said precinct, the said defendant, in the presence and with the aid of the jury, here now, counts all the said ballots so as aforesaid returned by said judges of said precinct for each and every of the respective offices voted for at said election, and the counts correspond precisely, tally for tally, with the said two tally lists and with the certificate of the said judges, except that the vote for said relator should have been carried out 103 instead of 123.

And the defendant further gave in evidence the ballots, the tally lists, the assessor's list, and the certificates of the three other precincts respectively, by all which it appears that the said defendant received—

| | | |
|---|---|---|
| In the 1st precinct | ..... | 165 |
| 2d do. | ..... | 144 |
| 3d do. | ..... | 122 |
| 4th do. | ..... | 104 |
| | | 535 |

| | | |
|---|---|---|
| And the relator in the 1st precinct | ..... | 90 |
| in the 2d | ..... | 103 |
| 3d | ..... | 147 |

And the relator in the 4th precinct..... 191

531

Whereby the defendant has a majority of..... 4

And the defendant rested.

And thereupon the relator offered to give evidence to show that sundry persons, whose votes so as aforesaid received at the said election for said def't, were not corporators of the said town of Georgetown, duly and lawfully authorized to vote thereat. And the defendant, by his counsel, objects to the admissibility of said evidence. But the court overruled the said objection, and permits the same to be given; whereupon the def't excepts and prays the court to sign and seal this his 1st bill of exception, which is done this 7th day of December, 1859.

JAS. DUNLOP, [SEAL.]
JAS. S. MORSELL, [SEAL.]
WM. M. MERRICK. [SEAL.]

It is agreed that the office of mayor, referred to in the proceedings in this case, is elected for two years, and that the salary is $1,000 per annum, payable monthly.

R. J. BRENT & CARLISLE,
*For Rel'r.*
BRADLEY & DAVIS,
*For Defendant.*

*Defendant's 2d Bill of Exception.*

On the further trial of this cause, the plaintiff, to support the issue on their part joined, in order to prove that one Joseph Blackburn, whose vote had been cast and received at said election for the said defendant, was not of full age at the time he so voted, offered to read in evidence from the register of baptism and christening of Trinity parish in Georgetown, as follows: (copied on page ); and in order to lay the foundation for the introduction of the same, gave evidence to show that the said entry is in the handwriting of P. Sacchi, who was at the date thereof the pastor of said church, and whose duty it was, on making the said entry, and administering the said rite of baptism and christening, to ascertain the date of the birth of the child from the parents, sponsor, or some other responsible person, and to make the same part of the said register; that the said P. Sacchi, and the said father of said infant, and said sponsor, named in said register, are all dead, and the mother of the said voter, Joseph Blackburn, is very infirm and incapable of attending this court to testify; and also gave evidence, tending to show that she is insane. But the admissibility of said paper for the purpose of showing the age of the said voter is objected to by defendant's counsel, and the court

overruled said objection, and permits the said evidence to be read to the jury as evidence, tending to show the age of said voter, and the defendant by his counsel excepts thereto, and prays the court to sign and seal this his second bill of exception, which is done accordingly, this 10th day of December, 1859.

JAS. DUNLOP. [SEAL.]
WM. M. MERRICK. [SEAL.]

Extract referred to in the aforegoing bill of exception, from the registry of said parish (1 Leading), baptised and christened:

"Date 1839. Joseph William, son of William Blackburn and Elizabeth Blackburn, his wife, March 9, born in Georgetown, D. C., on the 26th last. Sponsor, Catherine Green.

(Signed) PH. A. SACCHI."

*Defendant's 3d Bill of Exception.*

On the further trial of this cause, the defendant, further to maintain the issue on his part joined, and in order to show that John Horigan was not a citizen of the United States, and not a qualified voter, offered to give evidence to show that the said John Horigan is a native-born citizen of Ireland, and that the record of his naturalization in the circuit court of the District of Columbia, on the 19th day of February, 1859; and then offered to prove by parol, that in point of fact, that the said John Horigan was not before the circuit court at the time the said certificate purports to show he was naturalized, or at any other time, for the purpose or with the intent of being naturalized, but that, in point of fact, the evidence on which the same was granted was taken by the clerk in the clerk's office, out of the presence and hearing of the said court, and being reduced to writing, was brought by the said clerk to the said court, or one of the judges thereof, in the absence of said Horigan and his witnesses, and by the said court, or the said judge, the order for the naturalization of the said Horigan was made. But the court refuses to permit the said evidence to be given, and the said defendant by his counsel excepts thereto, and prays the court to sign and seal this his 3d bill of exception.

JAS. DUNLOP. [SEAL.]
WM. M. MERRICK. [SEAL.]

The record of naturalization referred to in the aforegoing bill of exception is hereto annexed:

DISTRICT OF COLUMBIA, *to wit.*

At a circuit court of the United States for the District of Columbia, held for the county of Washington, at the city of Washington, on the 3d Monday of January, in the year of our Lord one thousand eight hundred and fifty-nine, and of the independence of the United States the eighty-third:

Present, the Honorable James Dunlop, chief judge; James S. Morsell, Wm. M. Merrick, assistant judges; William Selden, esquire, marshal; John A. Smith, clerk.

In the record of proceedings of the same court, among others are the following, to wit:

Be it remembered, that heretofore, to wit, 5th day of February, in the year of our Lord one thousand eight hundred and fifty-six, at the county of Washington aforesaid, appeared John Horigan, a native of Ireland, aged about twenty-five years, bearing allegiance to the Queen of Great Britain and Ireland, having emigrated from Liverpool, and arrived at New York on the first day of December, in the year of our Lord one thousand eight hundred and fifty-three, and intends to settle at Washington, D. C., and in open court reported himself for naturalization, and declared on oath, that it is bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatever, and particularly to the Queen of Great Britain and Ireland, according to the laws of Congress in such case made and provided.

And now, to wit, on this 19th day of February, in the year of our Lord one thousand eight hundred and fifty-nine, appears again in open court here the said John Horigan, and exhibits to the court here a certificate of his report and declaration aforesaid; and it appearing to the satisfaction of the court, by the oath of George M. Sothoron, a citizen of the United States, that the said John Horigan has resided within the limits and under the jurisdiction of the United States for five years last past, without having been out of the territory of the United States during that time, and one year last past within the limits and under the jurisdiction of this court, and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same.

And the said John Horigan in open court here makes oath that he will support the Constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatever, and particularly to the Queen of Great Britain and Ireland, to whom he was before a subject. It is thereupon ordered by the court here, that the said John Horigan be admitted a citizen of the United States; and he is accordingly admitted a citizen of the United States, agreeably to the laws of Congress in such case made and provided.

In testimony that the foregoing is truly taken from the records of the proceedings of the said court, I have hereto subscribed my name, and affixed the seal of the said court, the 19th day of February, one thousand eight hundred and fifty-nine.

[L. S.]

JNO. A. SMITH, *Cl'k.*

And before the jurors aforesaid left the bar of the court, the exceptions following were taken by said relator by his attorneys aforesaid:

*Relator's 1st Bill of Exception.*

On the trial of this cause, the defendant having given evidence tending to show that an election for mayor of Georgetown was regularly holden under the charters of the said town, on the 28th day of February, 1859, read in evidence the returns of the judges of election at the several precinct, as follows: (copied on page ); and the defendant by his counsel having stated, in offering the returns of the 2d precinct hereinbefore set forth, that he intended to offer evidence to impeach the same for mistake in fact, in summing up the votes given for the relator at the said precinct, now offered evidence tending to show that the relator did not in fact receive at that precinct one hundred and twenty-three votes, as returned and certified by the judges, but only one hundred and three votes.

To the admissibility of which evidence the U. S., on the relation aforesaid, objected; but the court overruled the said objection, and permitted the said defendant to give the said evidence to the jury, and to go behind the certificate of the judges, to ascertain by evidence aliunde the true majority of votes.

And the U. S., on the relation aforesaid, except to the said ruling of the court, and prays that this bill of exception may be signed, sealed and enrolled, which is accordingly done, this 7th day of December, 1859.

JAS. DUNLOP, [SEAL.]
JAS. S. MORSELL, [SEAL.]
WH. M. MERRICK. [SEAL.]

*Relator's 2d Bill of Exception.*

On the further trial of this cause the U. S. gave evidence that John Marbury voted at the said election in the precinct, and that his vote was received by the judges, and that at the time of so voting, the said John Marbury had not paid his school tax, but paid the same after he had voted and after his vote had been deposited in the ballot-box, and after he had left the polls and without returning to the polls, by giving a dollar to a boy who overtook him in the street on his way home; which boy afterwards, on the day of the election, delivered to the judges at the polls, before

the closing of the same, the receipt of the collector of taxes for the said school tax of said Marbury; and after giving such proof, the U. S. offered to prove by the said Marbury, who was on the witness stand, and had testified without objection to the facts, that he voted without paying his school tax, (through inadvertence,) and had not returned to the polls, but had given the dollar to the boy in the street as aforesaid; that he had voted for the defendant. But the said Marbury, after stating that the ballot which he so deposited had on it the name of a certain candidate for the council, whom he named, declined to state the further contents of the said ballot, or whether the same was for the defendant or relator for mayor. And the U. S. insisting that he was bound to answer whether the said ballot bore the name of the defendant or of the relator for mayor, the court ruled that he was privileged not to answer thereto.

And the court further ruled, that the subsequent payment of the school tax, on the same day as aforesaid, validated the vote of the said Marbury, previously given as aforesaid, and made the same a legal vote, so that evidence that he voted for the defendant was irrelevant and inadmissible.

To which ruling the pl'ff excepts, and this bill of exception is signed, sealed and enrolled, this 7th day of December, 1859.

JAS. DUNLOP, [SEAL.]
JAS. S. MORSELL. [SEAL.]

And whereas, afterwards, to wit, on 14th day of Dec'r, in the year of our Lord one thousand eight hundred and fifty-nine, the said respondent, by his attorneys aforesaid, produced and filed in court here, the United States writ for the correcting of errors of and upon the judgment aforesaid, directed to the judges of the circuit court of the District of Columbia, and in pursuance thereof, and according to the form and effect of the law in such case made and provided, a transcript of the record of proceedings of the judgment aforesaid, and all things thereunto relating, with the writ of error aforesaid and a copy of the appeal bond hereto annexed, is hereby transmitted to the said Supreme Court accordingly.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court, this 27th day of December, 1859.

[L. S.] JNO. A. SMITH, *Cl'k.*

Filed 27th Dec., 1859.